



WEB COPY



W.P.No.7568 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.7568 of 2022

Jothimani

...Petitioner

-Vs-

1. The Accountant General,
No.361, Annasalai,
Teynampet,
Chennai.
2. The Chief Education Officer,
Finger Post, Ooty,
The Nilgiris.
3. The District Education Officer,
Government Higher Secondary
School Compound,
Gudalur,
The Nilgiris.
4. The Block Education Officer,
Gudalur,
Near Head Post Office,
The Nilgiris.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call upon the records of the fourth respondent made in Na.Ka.No.780/A3/2021 dated



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13.12.2021 and quash the same and direct the third and fourth respondents to send all the necessary papers to the first respondent to get the benefits of the deceased Arumugam.

For Petitioner : Mr.G.Krishnakumar

For Respondents

For R1 : Mr.J.Sree Vidhya
Standing Counsel

For R2 to R4 : Mr.S.Rajesh
Government Advocate.

ORDER

This writ petition has been filed challenging the order passed by the fourth respondent dated 13.12.2021, thereby rejecting the request made by the petitioner for retirement benefits of her deceased husband and family pension.

2. The petitioner husband was working as Teacher in the Panchayat Union Middle School, Sinara Camp, Masinagudi. Thereafter, he was transferred to Devershola Panchayat Union School, on 17.01.1992. From 17.02.1992, her husband did not report either to school or to house. He was missing and as such, she lodged complaint before the jurisdictional Police Station and FIR in Crime No.71 of 2002 was



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registered under man missing. Thereafter she filed suit for declaration declaring as her husband died.

3. As per Section 108 of the Indian Evidence Act, if a person has not been heard for seven years, it has to be declared as dead. Accordingly, the petitioner filed suit in O.S.No.12 of 2011 on the file of the District Munsif Court, Gudalur, and the said Court by the judgment and decree dated 19.09.2014, declared as her husband legally died. On the strength of the decree, the petitioner was issued legal heir certification.

4. Thereafter, the petitioner also filed a suit in O.S.No.117 of 2016 on the file of the District Munsif Court, Gudalur, for mandatory injunction, to direct the authority concerned to disburse statutory benefits. However, the said suit was subsequently dismissed as withdrawn, since they were arrived at settlement with regard to terminal benefits. However, though the petitioner made so many representations, the authority concerned failed to consider the same. Finally the petitioner sent representation to Chief Minister Special cell and the same was



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forwarded to the file of the fourth respondent and by an order dated 13.12.2021, the request made by the petitioner was rejected.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. On perusal of the counter filed by the first respondent revealed that the request made by the petitioner for terminal benefits and family pension was already rejected by the fourth respondent on 11.05.2022, on the ground that her husband was removed from service on the charge of desertion by the District Elementary Educational Officer, Conoor, by his proceedings dated 08.07.2004, in terms of G.O.Ms.No.1046, Personnel and Administrative Reforms dated 18.11.1987.

7. As per the provision of Rule 21 of the Tamil Nadu Pension Rule 1978, dismissal or removal of a government servant from a service or post entails forfeiture of his past service and hence he would not be entitled any pensionary benefits. Therefore, the wife of a removed



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government servant is also not entitled to family or terminal benefits.

Therefore, the petitioner is not entitled for any benefits as claimed by her and the fourth respondent rightly rejected the request made by her. This Court finds no infirmity or illegality in the order passed by the fourth respondent and the writ petition is devoid of merits and liable to be dismissed.

8. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs.

22.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts



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G.K.ILANTHIRAIYAN. J.

rts

To

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